

Sample Order

At a Term of the Supreme Court of the State of New York, Part _____, held in and for the County of _____, at _____, N.Y. _____, on _____ 200 ,

P R E S E N T:

Hon. _____
JUSTICE OF THE SUPREME COURT

-----X

Plaintiff,

Index No.

-against-

**ORDER FOR OBSERVATION
AND EVALUATION**

Defendant.

-----X

After appropriate inquiry into the financial status of _____ and being satisfied that the party/parties is/are financially unable to pay any of the costs of the observation and evaluation,

Upon the application of _____, Esq., made on the ____ day of _____ 200 , it is

ORDERED that _____, whose office is located at _____ and whose telephone number is _____, is herein appointed to conduct an observation and evaluation of the interaction between/among the child(ren) and the following:

<u>NAME</u>	<u>RELATIONSHIP</u>
_____	_____
_____	_____
_____	_____

and to submit a report to the Court by _____, 200 , and to appear and testify if so directed by the Court, it is further

ORDERED that, upon receipt of a copy of this order, the parties are to telephone Mr./Ms. _____, to schedule appointments and cooperate in all respects with the evaluation. Mr./Ms. _____ shall meet with each of the parties and observe a maximum of six one hour interactions between the child(ren) and the _____, it is further

One (1) of the following:

I. [For Use In Private Pay Cases]

ORDERED, that the court having made appropriate inquiry into the financial status of the parties, the plaintiff shall pay _____ % of the evaluator's fees, and the defendant shall pay _____ % of the evaluator's fees, including an initial retainer in the sum of \$ _____, subject to reallocation at trial; and it is further

ORDERED, that the cap on the observation and evaluation ordered is not to exceed a rate of \$ ___ per hour, to a maximum of \$ _____. However, if the evaluator anticipates that the cost of the observation and evaluation and written report (not including testimony) is likely to exceed the cap set by the court, then he/she shall make a supplemental request on notice for additional compensation prior to the expenditure of time, subject to reallocation at trial; and it is further

ORDERED, that no less often than every sixty days from the date of this order of appointment, the mental health professional shall send to counsel for the parties, including counsel for the child(ren) (if any), detailed bills of services rendered.

If the evaluator requires the parties to enter into a written retainer agreement, the agreement shall not contain any material terms that conflict with the provisions of this order.

The failure to comply with the provisions of this order relating to payment of the fees of the mental health professional shall be subject to judicial sanction.

II. [For Use When All Parties are Indigent]

ORDERED, that the court having made appropriate inquiry into the financial status of the parties, and being satisfied that the litigants are financially unable to pay the costs of the services provided for herein, compensation for said observation and evaluation, and any court appearances in connection therewith, shall be paid proportionately to the ratio of adults seen and evaluated (Section 35 (8) of the Judiciary Law), to the children seen and evaluated (Section 35(7) of the Judiciary Law), at a rate not to exceed \$ _____ per hour to a maximum amount of \$ _____.

Alternatively, if the child(ren) are represented by an institutional provider, the institutional office representing the child(ren) is directed to bear the proportionate share for the child represented by it as specified above.

A finding of extraordinary circumstances has been made by the Court to warrant compensation to the evaluator in excess of the statutory maximum (\$200).

ORDERED, that no less often than every sixty days from the date of this order of appointment, the mental health professional shall send to counsel for the parties, including counsel for the child(ren) (if any), an itemization of services rendered.

However, if the evaluator anticipates that the cost of the observation and evaluation and written report (not including testimony) is likely to exceed the cap set by the court, then he/she shall make a supplemental request on notice to the court for additional compensation prior to the expenditure of time.

III. [For Use In Mixed Indigent/Private Pay Cases]

ORDERED, that the court having made appropriate inquiry into the financial status of the parties, the plaintiff shall pay _____% of the evaluator's fees, including those apportioned to the child(ren), and the defendant shall pay _____% of the evaluator's fees, including those apportioned to the child(ren), including an initial retainer in the sum of \$_____, subject to reallocation at trial; and it is further

ORDERED, that the court having made appropriate inquiry into the financial status of the parties and the court having determined that plaintiff/defendant, is financially unable to pay his/her proportionate share of the costs of the services provided for herein; accordingly, said plaintiff's/defendant's proportionate share shall be paid pursuant to Section 35(8) of the Judiciary Law.

Having found that the monied party is not able to bear the full cost of the observation and evaluation of the child(ren), and preparation of written report; it is ORDERED, that the cost of said services shall be paid pursuant to Section 35(7) of the Judiciary Law.

Alternatively, if the child/children are represented by an institutional provider, the institutional office representing the child(ren) is directed to bear the proportionate share for the child represented by it as specified above.

ORDERED, that the cap on the observation and evaluation is not to exceed a rate of \$ _____ per hour, to a maximum of \$ _____. If the evaluator anticipates that the cost of the evaluation and report, and preparation of written report (not including testimony) is likely to exceed the cap set by the court or the statutory maximum, then he/she shall make a supplemental request on notice for additional compensation prior to the expenditure of time. Only upon a written showing of extraordinary circumstances will compensation be awarded in excess of the statutory maximum.

ORDERED, that no less often than every sixty days from the date of this order of appointment, the mental health professional shall send to counsel for the parties detailed bills of

services rendered.

The failure to comply with the provisions of this order relating to payment of the fees of the mental health professional shall be subject to judicial sanction.

The report shall be submitted to the Court, attorney for the child, and counsel for the parties. The report shall be shown to the parties. However, copies should not be provided absent court order.

Dated: _____

ENTER

Hon.
JUSTICE OF THE
SUPREME COURT